

## Message Text

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ORIGIN SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /026 R

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L/PM:TBOREK (PHONE)

S/S-O:PSHANKLE

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O 282354Z MAR 75

FM SECSTATE WASHDC

TO AMEMBASSY BRASILIA IMMEDIATE

USMISSION GENEVA

C O N F I D E N T I A L STATE 071502

EXDIS

E.O. 11652: GDS

TAGS: PLOS, EFIS, BR, PFOR

SUBJECT: LEGAL CONSEQUENCES OF SHRIMP VESSEL SEIZURES

REF: BELEM 26, 27, 28

GENEVA FOR USDEL LOS-OXMAN AND CLINGAN

1. BRAZIL HAS REPORTEDLY SEIZED 2 US SHRIMP VESSELS OPERATING OUTSIDE THE SHRIMP AGREEMENT AREA BUT INSIDE BRAZIL'S CLAIMED 200-MILE TERRITORIAL SEA. THIS SITUATION HAS NOT OCCURRED BEFORE. PREVIOUS SEIZURES BY BRAZIL HAVE BEEN FOR CLEAR VIOLATION OF CLOSED SEASON UNDER TERMS OF AGREEMENT.

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2. BRAZIL HAS APPARENTLY SEIZED VESSELS FOR QUOTE FISHING

IN BRAZILIAN TERRITORIAL WATERS OUTSIDE THE AREA COVERED BY THE AGREEMENT UNQUOTE, AND IS PURSUING MATTER NOT AS NORMAL VIOLATION OF BRAZILIAN INTERNAL LAW WITH PENALTIES ACCORDING TO NATIONAL LEGISLATION, BUT RATHER AS VIOLATION OF SHRIMP AGREEMENT. PURSUANT TO AGREEMENT RELATIVELY SMALL FEES FOR GOB ENFORCEMENT EXPENSES ARE BEING PAID BY VESSEL OWNERS

3. POSSIBILITY OBVIOUSLY EXISTS FOR JURIDICAL CONFRONTATION WITH GOB AS RESULT OF DIFFERING INTERPRETATIONS BY US AND BRAZIL RE SHRIMP AGREEMENT AND LOS. POSSIBLE GOB VIEW THAT AGREEMENT LIMITS US VESSELS TO OPERATING ONLY WITHIN AGREEMENT AREA CONFLICTS WITH US JURIDICAL VIEW THAT AREA OUTSIDE AGREEMENT BEYOND 12 MILES OF BRAZILIAN COAST IS HIGH SEAS.

4. FOR BRASILIA: SEIZURE OF US SHRIMP VESSELS BY BRAZILIAN NAVY BRINGS INTO PLAY A NUMBER OF STATUTES WHICH MAY AFFECT US RELATIONS WITH BRAZIL. OF MOST IMMEDIATE CONSEQUENCE IS SECTION 3(B) OF THE FOREIGN MILITARY SALES ACT, AS AMENDED, WHICH PROVIDES THAT NO SALES CREDITS OR GUARANTEES UNDER THE ACT MAY BE MADE OR EXTENDED TO QUOTE ANY COUNTRY DURING A PERIOD OF ONE YEAR AFTER SUCH COUNTRY SEIZES, OR TAKES INTO CUSTODY, OR FINES AN AMERICAN FISHING VESSEL FOR ENGAGING

FROM THE COAST OF THAT COUNTRY UNQUOTE. WHILE THIS CUTOFF IS IMMEDIATE, THE PRESIDENT MAY LATER WAIVE THE PROVISION IF HE DETERMINES IT TO BE IMPORTANT TO THE SECURITY OF THE UNITED STATES OR HE RECEIVES REASONABLE ASSURANCES THAT FUTURE VIOLATIONS WILL NOT OCCUR. WHILE THIS SECTION DOES NOT APPLY WHERE INTERNATIONAL AGREEMENT GOVERNS, VESSELS WERE APPARENTLY NOT IN AREA IDENTIFIED ARTICLE I OF AGREEMENT CONCERNING SHRIMP AS QUOTE AREA OF AGREEMENT UNQUOTE. WE HAVE ADVISED DOD INFORMALLY NOT TO ENTER INTO CONTRACTS UNTIL FURTHER NOTICE. THIS DOES NOT AFFECT MATERIEL IN PIPELINE.

5. VESSELS OWNERS ARE ENTITLED TO APPLY FOR REIMBURSEMENT FROM USG OF QUOTE FINES UNQUOTE PAID TO BRAZILIANS  
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UNDER FISHERMAN'S PROTECTIVE ACT. AFTER PAYMENT AND ADJUDICATION, IT WILL BE NECESSARY TO NOTIFY GOB THAT USG HAS REIMBURSED VESSEL OWNERS. OTHER PROVISIONS MAY REQUIRE PRESENTATION OF CLAIM FOR REIMBURSEMENT UNLESS PRESIDENT WAIVES THIS.

6. BASED ON COORDINATES PROVIDED BY BRAZILIAN NAVY, US VESSELS WERE APPARENTLY SIGHTED AT 22 MILES OFFSHORE AND

SEIZED AT 37 MILES OFFSHORE, FAR FROM AGREEMENT AREA.  
DEPARTMENT MUST GIVE CAREFUL CONSIDERATION TO TIMING AND  
TONE OF ANY PROTEST THAT MAY BE UNDERTAKEN TO PROTECT  
LOS JURIDICAL POSITION. EMBASSY AND USDEL LOS VIEWS  
WOULD BE APPRECIATED IN THIS REGARD AND WITH RESPECT TO  
GENERAL ISSUES. EMBASSY IS REQUESTED TO ASSESS WHETHER  
DECISION TO SEIZE VESSELS REFLECTS HIGH LEVEL POLICY OR  
OPERATIONAL LEVEL DECISION. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** Z  
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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** SHIP DETENTION, LAW OF THE SEA, TERRITORIAL SEA LIMIT, TERRITORIAL WATERS, FISHING BOATS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 28 MAR 1975  
**Decaption Date:** 28 MAY 2004  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** greeneet  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
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**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** SJBURTON:OES/OFA:BHALLMANN  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
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**Office:** ORIGIN SS  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** EXDIS  
**Original Previous Classification:** n/a  
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**Previous Handling Restrictions:** EXDIS  
**Reference:** 75 BELEM 26, 75 27, 75 28  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** greeneet  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 17 JUN 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <17 JUN 2003 by KelleyW0>; APPROVED <30 OCT 2003 by greeneet>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
05 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** LEGAL CONSEQUENCES OF SHRIMP VESSEL SEIZURES  
**TAGS:** PLOS, EFIS, PFOR, BR, US  
**To:** BRASILIA GENEVA  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006